

CITY OF SAN JOSÉ, CALIFORNIA Department of Planning, Building and Code Enforcement 801 North First Street, Room 400 San José, California 95110-1795		Hearing Date/Agenda Number P.C. 2/26/03 Item. 4.b.	
<h1>STAFF REPORT</h1>		File Number CP 02-052	
		Application Type Conditional Use Permit	
		Council District 3	
		Planning Area Central	
		Assessor's Parcel Number(s) 235-12-003	
PROJECT DESCRIPTION		Completed by: John Davidson	
Location: Northwest corner of Commercial and N. Seventh Streets (297 Commercial Street)			
Gross Acreage: 1.0		Net Acreage: 1.0	
Net Density: N/A			
Existing Zoning: LI Light Industrial		Existing Use: Warehouse	
Proposed Zoning: No change		Proposed Use: Social service agency	
GENERAL PLAN		Completed by: JED	
Land Use/Transportation Diagram Designation Light Industrial		Project Conformance: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> See Analysis and Recommendations	
SURROUNDING LAND USES AND ZONING		Completed by: JED	
North: Industrial Uses		LI Light Industrial	
East: Industrial Uses		LI Light Industrial	
South: Industrial Uses, Emergency Homeless Shelter		LI Light Industrial	
West: Industrial Uses		LI Light Industrial	
ENVIRONMENTAL STATUS		Completed by: JED	
<input type="checkbox"/> Environmental Impact Report found complete on		<input checked="" type="checkbox"/> Exempt	
<input type="checkbox"/> Negative Declaration circulated on		<input type="checkbox"/> Environmental Review Incomplete	
<input type="checkbox"/> Negative Declaration adopted on			
FILE HISTORY		Completed by: JED	
Annexation Title: Orchard No. 5		Date: August 10, 1948	
PLANNING DEPARTMENT RECOMMENDATIONS AND ACTION			
<input checked="" type="checkbox"/> Approval		Date: _____	
<input type="checkbox"/> Approval with Conditions		Approved by: _____	
<input type="checkbox"/> Denial		<input type="checkbox"/> Action	
		<input checked="" type="checkbox"/> Recommendation	
OWNER		APPLICANT/DEVELOPER	
InnVision The Way Home Attn: Christine Burroughs 974 Willow Street San Jose, CA 95125		Allan France ZF Associates 212 Woods Street Santa Cruz, CA 95062	

PUBLIC AGENCY COMMENTS RECEIVED**Completed by: JED**

Department of Public Works
See Conditions of Approval

Other Departments and Agencies
See Conditions of Approval

GENERAL CORRESPONDENCE

None received

ANALYSIS AND RECOMMENDATIONS

BACKGROUND

The property owner, InnVision The Way Home, is requesting a Conditional Use Permit to allow a social service agency in an existing building, located at the northwest corner of Commercial and N. Seventh Streets in the LI Light Industrial Zoning District. The Zoning Ordinance requires a Conditional Use Permit (CUP) for social service agencies in the LI Light Industrial Zoning District. A social service agency provides services or activities that advance the welfare of citizens in need. A social service may include supporting office uses, supporting medical office or clinic uses, supporting vocational or trade training, and supporting personal services and/or a food and goods distribution facility.

The present use of the building is warehousing, and the applicant is proposing to divide the building into spaces for the social service use, warehousing, and parking. This social service agency use would be operated in conjunction with the existing InnVision Emergency Homeless Shelter, located at 260 Commercial Street, directly south of the project site across Commercial Street. The social service agency use will share parking facilities with the emergency homeless shelter, through an off-site alternating use parking arrangement, which is included as a part of this Permit.

Surrounding uses are light industrial to the north, south, east and west, with the existing InnVision emergency homeless shelter to the south across Commercial Street. The shelter was originally approved under a CUP in 1987, and has a total of 58 beds. The shelter received a subsequent CUP in 1994.

Project Description

InnVision The Way Home is a non-profit organization that offers emergency shelter, affordable housing, and social services to at-risk women and children. Currently, InnVision operates their social services programs from their facility at 66 E. Rosemary Street, approximately one-half mile from the subject site. That facility would be closed if the subject proposal is approved. InnVision wishes to move their facilities to better serve their clients who stay at the shelter at 260 Commercial Street. Locating the social service agency across the street from the shelter will allow consolidation of services to homeless families. InnVision notes that approximately 95% of their clients do not own cars, so families staying at the Commercial Street shelter must daily walk the ½ mile to the Rosemary Street location to receive needed services. Travel times between facilities would be dramatically reduced if the new facility is approved. Services proposed for the site include counseling, training, and medical services. An indoor play area would be provided for the children of adult clients.

Minor exterior changes are proposed as a part of this CUP, including the construction of an entry canopy, and new landscaping at the corner of Commercial and N. Seventh Streets. A new driveway will be provided on North 7th Street, to allow smooth on-site vehicular circulation. The interior of the warehouse would be reconfigured to accommodate the social service agency, parking, and a small warehouse component. The changes are readily reversible should InnVision leave the site and a new industrial use move in.

GENERAL PLAN CONFORMANCE

The subject site has a General Plan Land Use/Transportation Diagram designation of Light Industrial. The Light Industrial Designation is intended to be reserved for industrial uses. The proposed social service agency use is not industrial in nature, and would normally be allowed in areas designated Light Industrial with Mixed Industrial Overlay. In 2001 the City Council approved a General Plan Amendment that removed the Mixed Industrial Overlay from a large industrial area of over 400 acres centered around the US 101 and US 880 freeway interchange that includes the subject site. While removing the Overlay, the City Council noted in its discussion the need to allow flexibility for location of social service agencies, and the Zoning Code was amended to allow social service agencies in the LI Light Industrial and HI Heavy Industrial Zoning Districts with a CUP. Social service agencies are to be considered on a case-by-case basis, taking into account the impacts of the introduction of the non-industrial use on the character of the surrounding industrial area.

On this basis, the proposed social service agency can be considered to be consistent with the General Plan.

Given the presence of the permitted emergency homeless shelter across the street, the proposed social service agency represents the co-location of InnVision's homeless program services. Therefore, the proposed use would not introduce a new non-industrial use in the industrial district, but rather would expand the program initiated by the homeless shelter. The proposed use is intended to complement the existing emergency homeless shelter. The social service agency will draw a large majority of its clients from the homeless shelter already located in the neighborhood, with other clients making up a smaller fraction of the total number of clients served.

ENVIRONMENTAL REVIEW

The Director of Planning has determined that pursuant to Section 15301 of the CEQA Guidelines, the proposed project is exempt from environmental review. Section 15301 of the CEQA Guidelines exempts projects that involve existing facilities.

ANALYSIS

The main issues associated with this Permit are land use compatibility and the proposed off-site alternating use parking arrangement.

Land Use

The social service agency would be complimentary to the existing emergency homeless shelter by providing day services to at-risk women and children using the 260 Commercial Street Facility, along with a smaller percentage of drop-in clients. The large majority of the clients coming to the social service agency during the day would be the same clients staying at the shelter at night across Commercial Street, so therefore the project would not introduce a large new non-industrial use within the industrial neighborhood. The clients

will be taking part in training and counseling services completely contained within the existing building.

The project consists of tenant improvements to the existing building. Except for the proposed entry feature, the new 7th Street driveway, and a small amount of landscaping, the exterior of the building will not be changed and will still appear as a typical nondescript industrial warehouse. All uses proposed for the site will take place within the existing building. Proposed improvements include classroom, counseling, lounge, dining area, medical examination, and administration spaces, along with an indoor children's play area.

For all of these reasons, staff has concluded that the addition of social service agency use to this site will not be detrimental to the character of the neighborhood.

Off-Site, Alternating-Use Parking Arrangement

The project proposes no more than 10,000 sq. ft. of floor area intended for use by the social service agency, and approximately 3700 sq. ft. of floor area devoted to warehouse. The parking requirement for a social service agency is one space per 250 sq. ft. of floor area, or 40 spaces for the project. Warehouses less than 5,000 sq. ft. require at least 2 parking spaces. The total parking requirement is therefore 42 spaces.

The proposed reconfiguration of the interior will allow for a total of 32 parking spaces on-site. The applicant is proposing an off site-alternating use parking arrangement in conjunction with the existing emergency homeless shelter located at 260 Commercial Street. The existing emergency homeless shelter at 260 Commercial Street has twelve parking spaces available on site. Using the spaces at 260 Commercial Street, a total of 44 parking spaces are available to the social service agency use. As noted by the applicant, approximately 95% of their clients do not own cars.

Zoning Ordinance Section 20.90.200 allows for alternating use and off-site parking arrangements. An alternating use parking arrangement allows two uses with parking demands at different times of the day to share parking spaces. In this case, the Emergency Homeless Shelter has twelve parking spaces on-site, which are needed while the shelter is open, typically from 4:00 p.m. to 9:00 a.m. the following morning. The proposed social services agency will be conditioned to operate when the shelter is not operating, typically from 9:00 a.m. to 4:00 p.m., Monday through Friday, which is complementary in terms of schedule. Under the terms of the alternating use parking arrangement, both facilities will not be allowed to simultaneously accept clients at the same time. The administrative functions for each facility would be allowed to operate without time condition, but the two facilities would accept clients (often the same families and individuals moving between the two) at distinct times to ensure adequate parking is available at any given time for each use.

The uses are operated by the same social services agency, so it is reasonably certain that the parking spaces will be available for the life of the use. To further ensure the availability of parking for the life of the social service agency, the Permit requires the applicant to grant a Covenant of Easement to the City of San Jose, empowering the City to enforce the shared parking provision.

PUBLIC OUTREACH

Notice of the Planning Commission hearing was distributed to the owners and tenants of all properties located within 500 feet of the project site. Staff has been available to discuss the project with interested

members of the public.

RECOMMENDATION

The Planning staff recommends that the Planning Commission approve the requested Conditional Use Permit and include the following findings and conditions in its resolution.

The Planning Commission finds that the following are the relevant facts regarding this proposed project:

1. This site has a designation of Light Industrial on the adopted San José 2020 General Plan Land Use/Transportation Diagram.
2. The 1.0 acre project site is located in the LI Light Industrial Zoning District.
3. Surrounding uses are light industrial to the north, south, east and west, with the existing InnVision emergency homeless shelter to the south across Commercial Street. The shelter was originally approved under a CUP in 1987, and has a total of 58 beds. The shelter received a subsequent CUP in 1994.
4. Social service agency uses are a Conditional Use in the LI Light Industrial Zoning District, and are considered on a case-by-case basis on properties with a Light Industrial General Plan land use designation.
5. Minor exterior changes are proposed to the building and site as part of this CUP.
6. The project site has a total of 32 on-site parking spaces existing on the subject site. A total of 12 additional parking spaces are available off-site at the InnVision Emergency Homeless shelter located at 260 Commercial Street, across the street from the subject site.
7. The proposed social service agency is intended to better serve InnVision clients already in the area by providing complementary services to the emergency homeless shelter located at 260 Commercial Street, also operated by the applicant.
8. This Permit would allow social service agency uses in no more than 10,000 square feet of the existing, 28,000 square foot building. Hours of operation for the two facilities will be distinct from each other, with the social service agency typically receiving clients from 9:00 a.m. to 5:00 p.m. when the shelter is no longer serving clients.
9. Under the provisions of Section 15301 of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA), the Director of Planning has determined that the proposed project is exempt from environmental review.

This Planning Commission concludes and finds, based upon an analysis of the above facts that:

1. Although the proposed social service agency is not an industrial use consistent with the site's General Plan designation of Light Industrial, social service agencies are allowed with a CUP in the LI Light Industrial Zoning District, and may be considered on a case-by-case basis on lands with an

industrial designation. The proposed project is complimentary to an existing emergency homeless shelter already located in the area. This use will draw a majority of its clients from the homeless shelter already located in the neighborhood, with other clients making up a smaller fraction of the total number of clients served. The project will not introduce a new non-industrial use in the industrial neighborhood.

2. Parking will be provided for the proposed social service agency use through an off-site alternating parking arrangement on property also owned by the applicant. The parking will be guaranteed under a Covenant of Easement to the City of San Jose.
3. The proposed project complies with all applicable provisions of the Zoning Ordinance.
4. The proposed project is in compliance with the California Environmental Quality Act.

Finally, based upon the above-stated findings and subject to the conditions set forth below, the Planning Commission finds that:

1. The proposed use at the location requested will not
 - a. Adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding area; or
 - b. Impair the utility or value of property of other persons located in the vicinity of the site; or
 - c. Be detrimental to public health, safety or general welfare; and
2. The proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and other development features prescribed in this title, or as is otherwise required in order to integrate said use with the uses in the surrounding areas; and
3. The proposed site is adequately served:
 - a. By highways or streets of sufficient width and improved as necessary to carry the kind and quality of traffic such use would generate; and
 - b. By other public or private service facilities as are required.
4. The off-site alternating use parking arrangement is appropriate for the site, in that:
 - a. The number of off-street parking spaces provided in such parking facilities adequately meets the parking requirements of the individual buildings and uses as specified in Chapter 20.90 of the Zoning Ordinance;
 - b. It is reasonably certain that the parking facility shall continue to be provided and maintained at the same location for the service of the building or use for which the such facility is required, during the life of the building or use; and
 - c. The parking facility is reasonably convenient and accessible to the buildings or uses to be

served.

In accordance with the findings set forth above, a Conditional Use Permit to use the subject property for said purpose specified above and subject to each and all of the conditions hereinafter set forth is hereby granted. This Planning Commission expressly declares that it would not have granted this permit except upon and subject to each and all of said conditions, each and all of which conditions shall run with the land and be binding upon the owner and all subsequent owners of the subject property, and all persons who use the subject property for the use conditionally permitted hereby.

CONDITIONS PRECEDENT

This Conditional Use Permit shall have no force or effect and the subject property shall not be used for the hereby permitted uses unless and until all things required by the below-enumerated precedent conditions shall have been performed or caused to be performed and this Resolution has been recorded with the County Recorder.

1. **Acceptance and Payment of Recording Fees.** The "Acceptance of Permit and Conditions" form shall be **signed, notarized, and returned** to the Department of City Planning within **60 days** from the date of issuance of the resolution granting the permit. *Failure to do so will result in this permit automatically expiring regardless of any other expiration date contained in this permit.* Fees for recording a Certificate of Permit with the Recorder for the County of Santa Clara must be submitted along with the Acceptance Form.

CONCURRENT CONDITIONS

The subject property shall be maintained and utilized in compliance with the below-enumerated conditions throughout the life of the permit:

1. **Conformance with Plans.** Construction and development shall conform to approved development plans entitled, "New Georgia Travis Center, 297 Commercial Street, San Jose, California" dated February 5, 2003, on file with the Department of Planning, Building and Code Enforcement, and to the San José Building Code (San José Municipal Code, Title 24).
2. **Nuisance.** This use shall be operated in a manner which does not create a public or private nuisance. Any such nuisance must be abated immediately upon notice by the City.
3. **Lighting.** This permit allows no new on-site lighting.
4. **Outside Storage.** No outside storage is permitted for the project. Storage shall occur only in areas within the building as designated on the approved plan set.
5. **Colors and Materials.** All building colors and materials are to be those specified on the approved plan set.
6. **Hours of Operation.** The shelter facility and the social service agency shall not serve clients simultaneously. The hours of operation for the two facilities shall remain distinct. Administrative functions involving employees only can occur at the same time at each facility, but clients shall not

be received at one facility while the other remains in operation.

7. **Alternating Use Parking Arrangement.** Parking spaces located at 260 Commercial Street shall be available to employees and clients of 297 Commercial Street at any time the social service agency use is in operation.
8. **Covenant of Easement.** Pursuant to Chapter 20.110 of the Zoning Code, the applicant shall provide a Covenant of Easement to the City of San Jose for parking and ingress/egress purposes over the property located at 297 Commercial Street.
9. **Building Clearance for Issuing Permits.** Prior to the issuance of a Building Permit, the following requirements must be met to the satisfaction of the Chief Building Official:
 - a. *Construction Plans.* This Permit file number, CP 02-052 shall be printed on all construction plans submitted to the Building Division.
 - b. *Americans With Disabilities Act.* The applicant shall provide appropriate access as required by the Americans With Disabilities Act (ADA).
 - c. *Emergency Address Card.* The project developer shall file an Emergency Address Card, Form 200-14, with the City of San José Police Department.
 - d. *Construction Conformance.* A project construction conformance review by the Planning Division is required. Planning Division review for project conformance will begin with the initial plan submittal to the Building Division. Prior to final inspection approval by the Building Department, Developer shall obtain a written confirmation from the Planning Division that the project, as constructed, conforms with all applicable requirements of the subject Permit, including the plan sets. To prevent delays in the issuance of Building Permits, please notify Planning Division staff at least one week prior to the final Building Division inspection date.
10. **Public Works Clearance.** A Development Clearance shall be obtained from the Public Works Department, Room 308, (408) 277-5161, and is subject to the following requirements (3-10301) to the satisfaction of the Director of Public Works:
 - a. *Sewage Fees.* In accordance with City Ordinance all storm sewer area fees, sanitary sewer connection fees, and sewage treatment plant connection fees, less previous credits, are due and payable.
 - b. *Undergrounding.* The In Lieu Undergrounding Fee shall be paid to the City for all frontage adjacent to Commercial Street and 7th Street prior to issuance of a Public Works clearance. Up to 100 percent of the base fee in place at the time of payment will be due. (Currently, the base fee is \$224 per linear foot of frontage.) The actual percentage will be determined prior to issuance of a Public Works Clearance for this project.
 - c. *Flood: Zone AO, Depth 3 ft.*
 - i. Project must comply with the Substantial Improvement Policy for improvements to

existing structures in a Special Flood Hazard Area.

- ii. If the cost of the proposed improvements exceed 50% of the current market value of the existing structure, then the entire structure must fully comply with the following City Floodplain Management requirements:
- iii. Elevate the lowest floor of the structure to 3 feet above the highest existing adjacent grade or floodproof to the same elevation if structure will not have residential uses.
- iv. If the structure is elevated, an Elevation Certificate (FEMA Form 81-31) based on construction drawings is required prior to the issuance of a building permit. Consequently, after the improvement is completed, an Elevation Certificate based on finished construction is required prior to issuance of an occupancy permit
- v. If the structure is floodproofed, a Floodproofing Certificate (FEMA Form 81-65), and floodproofing details are required prior to the issuance of a Public Works Clearance.
- vi. Building support utility systems such as HVAC, electrical, and plumbing systems must be elevated above the base flood elevation or protected from flood damage.

d. *Electrical:*

- i. Install 1 electrolier at the northwest corner of Commercial Street and 7th Street.
- ii. Provide clearance for electroliers from overhead utilities and request clearance from utility companies. Clearance from electrolier(s) must provide a minimum of 10' from high voltage lines; 3' from secondary voltage lines; and 1' from communication lines.
- iii. Salvage 1 existing luminaire and install 1 new luminaire.

e. *Landscape:*

- i. Install street trees within the public right-of-way along the entire street frontage per City standards.
- ii. The locations of the street trees will be determined at the street improvement stage. Street trees shown on this permit are conceptual only.
- iii. Contact the City Arborist at (408) 277-2756 for the designated street tree.

f. *Street Improvements:*

- i. Applicant shall be responsible to remove and replace curb, gutter, and sidewalk damaged during construction of the proposed project.
- ii. Remove and replace broken or uplifted curb, gutter, and sidewalk along project frontage.
- iii. Close unused driveway cut(s).
- iv. Install handicap ramps (2) at the northeast and northwest corners of Commercial Street and 7th Street.
- v. Remove tripping hazard on 7th Street approximately 50 feet north of Commercial Street.
- vi. Remove concrete in park strip along Commercial Street and 11th Street.

- g. *Minor Improvement Permit.* The applicant will be required to satisfy all Public Works conditions prior to the issuance of a Public Works Clearance. The clearance will require the execution of a Minor Street Improvement Permit that guarantees the completion of the public improvements to the satisfaction of the Director of Public Works. This permit includes plans, insurance, bonds/deposit certificate, and engineering and inspection fees.

11. **Fire Flow.** The minimum fire flow requirement for the site is 3,750 gallons/minute. The needed fire flow shall be provided from a minimum of four hydrants, spaced an average of 350 feet away from the proposed project. Fire flow may be reduced upon construction of a four-hour wall, without openings, per the adopted fire code. Construction of the area separation wall is subject to review by the Fire Department.
12. **Sprinkler System.** The applicant shall alter the sprinkler system as needed by new partitions, floors, and ceilings. Plans and a permit application shall be submitted to the San Jose Fire Department's Bureau of Fire Prevention for review and approval before altering the system.
13. **Anti-Graffiti.** The applicant shall remove all graffiti from buildings and wall surfaces within 48 hours of defacement.

CONDITIONS SUBSEQUENT

1. **Permit Expiration.** This Conditional Use Permit shall automatically expire two years from and after the date of adoption of the Resolution by the Planning Commission, or by the City Council on appeal, granting this Permit, if within such two-year period, the proposed use of this site has not commenced, pursuant to and in accordance with the provisions of this Conditional Use Permit. The date of adoption is the date the Resolution granting this Conditional Use Permit is approved by the Planning Commission. However, the Director of Planning may approve a Permit Adjustment to extend the validity of this Permit for a period of up to two years. The Permit Adjustment must be approved prior to the expiration of this Permit.
2. **Revocation, Suspension, Modification.** This Conditional Use Permit may be revoked, suspended or modified by the Planning Commission, or by the City Council on appeal, at any time regardless of who is the owner of the subject property or who has the right to possession thereof or who is using the same at such time, whenever, after a noticed hearing in accordance with Part 3, Chapter 20.44, Title 20 of the San José Municipal Code it finds:
 - a. A violation of any conditions of the Conditional Use Permit was not abated, corrected or rectified within the time specified on the notice of violation; or
 - b. A violation of any City ordinance or State law was not abated, corrected or rectified within the time specified on the notice of violation; or
 - c. The use as presently conducted creates a nuisance.